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October 24, 2018

Electronically Filed

Hon. John G. Koeltl
United States District Judge
for the Southern District of New York
Daniel Patrick Moynihan United States Courthouse
500 Pearl St.
New York, NY 10007-1312

Re: *Global Lyme Alliance, Inc. v. Calve*, No. 18-cv-07639 — Request for
Pre-Motion Conference

Dear Judge Koeltl:

We represent the defendant, Camy Calve, in the above-referenced matter. Ms. Calve intends to file a motion to dismiss the complaint in this action. Consequently, we write to request a pre-motion conference pursuant to Paragraph 2.A. of Your Honor's Individual Practices.

The complaint, which alleges diversity of the parties pursuant to 28 U.S.C. § 1332(a) as the basis for federal jurisdiction, contains seven causes of action. The first two are for breach of contract. The remaining five causes of action are for conversion, unjust enrichment, tortious interference with prospective business relations, imposition of a constructive trust, and replevin.

The motion to dismiss will seek dismissal of the complaint in its entirety on the ground that the allegations concerning the amount in controversy are conclusory, improperly speculative, and devoid of any facts which would establish that the \$75,000 statutory threshold has been satisfied. Additionally, the motion to dismiss will seek dismissal of Causes of Action Three through Seven on the following grounds:

| Cause of Action | Ground(s) for Dismissal |
|------------------------------------|---|
| Third Cause of Action — Conversion | <ul style="list-style-type: none">• Failure to plead defendant's unauthorized possession to the exclusion of the rights of plaintiff• Duplicative of claims for breach of contract |

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| Cause of Action | Ground(s) for Dismissal |
|---|---|
| Fourth Cause of Action — Unjust Enrichment | <ul style="list-style-type: none"> • Duplicative of claims for breach of contract |
| Fifth Cause of Action — Tortious Interference with Prospective Business Relations | <ul style="list-style-type: none"> • Failure to plead that defendant's conduct amounts to a crime or an independent tort or that defendant engaged in conduct for the sole purpose of inflicting intentional harm on plaintiff |
| Sixth Cause of Action — Constructive Trust | <ul style="list-style-type: none"> • Duplicative of claims for breach of contract |
| Seventh Cause of Action — Replevin | <ul style="list-style-type: none"> • Duplicative of claims for breach of contract |

On October 9, 2018, I emailed counsel for the plaintiff, Global Lyme Alliance (“GLA”), explaining these bases for Ms. Calve’s motion to compel. In that correspondence I also provided citations to supporting cases. In response to my email, GLA’s counsel indicated that it would file an amended complaint.

GLA’s counsel, however, has failed to respond to my repeated inquiries as to when GLA will be filing the amended pleading. Ms. Calve must respond to the complaint by October 29, 2018. Thus, I write to request a pre-motion conference in the event that GLA does not file an amended complaint on or before October 29, 2018.

Respectfully submitted,



 Robert Cohen